HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI

Writ Petition No.25375 of 1997

Between:

Punjab National Bank Employees Union,
Rep. by its General Secretary,
Sri R. Mount Batton, Hyderabad

... Petitioner

And

The Industrial Tribunal-I, Hyderabad
Rep. by its Presiding Officer and another

... Respondents

:: ORDER::

Counsel for the Petitioner: Shri P. Sreedhara Rao

April 04, 2007

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This is a petition for quashing award dated 24-5-1996 passed by Industrial Tribunal-I, Hyderabad (for short, 'the Tribunal') in I.D.No.28 of 1993.

The petitioner is the Union of the employees of Punjab National Bank, who are working in the cadres of Armed Guards, Security Guards and Watch and Ward Staff. In 1992-1993, the petitioner represented to the management of the bank that the Armed Guards, Security Guards and Watch and Ward Staff should not be made responsible to hold the keys of the bank premises after closing hours. The management did not accept the demand. The conciliation proceedings held in the context of the demand made by the petitioner resulted in submission of failure report. After considering the report of the Conciliation Officer, the Government of India made reference under Section 10 (1)(d) read with Section 2 (a) of the Industrial Disputes Act, 1947 (for short, 'the Act') for adjudication of the following dispute:

> "Whether the claim of PNB Emp. Union, Hyderabad that the Armed Guards/Security Guards/watch and Ward staff of PNB are not required to held the keys of the Bank premises after closing of the premises is justified? If not, whether the Management of PNB was justified in charge sheeting Sri M.M.Ali, sub-staff for refusing to hold the keys of the Bank after office hours? What relief, if any, Sri M.M. Ali and other similarly placed workmen are entitled to?"

In the statement of claim made on behalf of the petitioner, it was averred that as per their duty chart, Security Guards and the members of Watch and Ward Staff are not required to hold the keys of the bank after closing hours and that the management of the bank was harassing the employees by initiating disciplinary action against them

on the charge of refusing to hold the keys.

In the counter filed on behalf of the management, reliance was placed on the recommendations made by the committee constituted by the Government of India that Security Guards, Armed Guards and members of Watch and Ward Staff are required to hold the keys after closing of the bank premises. The management also relied on Circular No.11, dated 3-2-1990 issued to all the offices in the country wherein it was mentioned that keys will be kept with Security Guards, Armed Guards and members of Watch and Ward Staff. As regards the disciplinary action initiated against Shri M.M. Ali, it was averred that the same had to be done because the official refused to perform his duties.

On a consideration of the pleadings of the parties, the Tribunal framed the following issues:

> "1) Whether the claim of the petitioner-Union that the Armed Guards/Security Guards/ Watch and ward Staff of Punjab National Bank are not required to hold the keys of the outer-gate entrance gate of Punjab National Bank premises is justified?
> 2) Whether the disciplinary action initiated against Sri M.M.Ali, Sub-staff/Armed Guard alleging that he refused to hold the keys of the Bank after office hours is justified?
> 3) Whether the workman M.M. Ali Armed Guard and other similarly placed workman are entitled for any relief under this reference?"

The learned Presiding Officer of the Tribunal referred to the pleadings and evidence of the parties and decided Issue No.1 against the petitioner by recording the following observations:

> "9. It is obvious from the evidence on record, that two types of keys are being maintained in every Branch of the Respondent-Bank. The main keys of the Bank relate to strong room containing safes with cash and jewellery and also the

keys of safes where important registers and documents are kept for safe custody. The other type of keys relates to the keys of entrance door/gate of the Bank premises. It is in the evidence of M.W.1 and M.W.2 that four sets of keys will be maintained for the entrance door/gate of the Bank premises and one set of such keys will be kept with the Armed Guard after closures of the Bank premises so as to enable the Armed Guard to open the Bank premises on the next day morning facilitating the sweeper to clean the premises and make it ready for the Bank officials to perform their duties, and the main keys i.e., relating to strong room keys of safe containing cash, jewellery, etc., will be kept with the designated officials of the Bank and the Head Cashier who is also on Award Staff and the Head Cashier is being paid additional remuneration for performing that part of his job.

10. A perusal of the claim statement filed on behalf of the petitioner Union goes to show as if the Armed Guard were asked to hold the main keys i.e., strong Room keys of the Bank after closure of the Bank premises and it is not the duty of the Armed Guards as enumerated in Bipartite settlements and Book of Instructions etc. But it has come in the cross examinations of WW 1 that Armed Guards were asked only to hold the keys of the outer gate of the outer gate of the premises of the Bank and not the main keys of strong room, cupboards etc. W.W.1 in his cross-examination stated thus: “I am familiar with the banking operations. Cash and jewellery are stored in the strong of the Bank. This strong room is also under lock and key. All cup boards, fire proof cabinets, filing cabinets, stationery rooms even table drawers are under lock and key. None of the keys for the above mentioned items are given to the armed guards. Our case before this Hon’ble Tribunal is that the armed guards should not be asked to hold the keys of the outer gate of the premises of the Bank. The keys for the outer gate of the main premises is different from all other keys such as strong room, cup boards, etc. There will be four sets of keys to the outer gate of the main premises of the Bank, of which Sri Ali was asked to hold one set of keys. I am not aware as to who holds the other three sets of the keys.” It is

seen from the evidence of W.W.1 that the dispute under this reference is whether the Armed Guards/Security Guards of the Respondent – Bank are not required to hold the keys of the outer gate of the premises of the Bank after closing of the Bank premises. The learned counsel for the petitioner-Union submits that under Ex.W4 dt. 5.6.1987, Punjab National Bank, Regional Office, Hyderabad, issued a letter to all it's Branch Office, Hyderabad, issued a letter to all its Branch Offices enumerating the security measures to be taken up in view of the deteriorating law and order situation countrywide with increase in crimes especially those directed against the Banks, and in the said security measures, it is highlighted that the keys should be kept with officers of the bank and not with the Armed Guards. Ex.W8 is the letter
dt.9-7-1984 addressed to one recommendation of the working group and security arrangement in Bank. Ex.W9 is the Xerox copy of Chapter X of book of Instructions (routine) containing instructions in respect of cash custody control and safeguards and the custody of important keys and duplicate keys. It is mentioned in this document that "the main keys of the Branch must, at all times, be retained in the possession of authorized officials, grave consequences that are liable to result from non-observance of this instruction cannot be too strongly impression officials responsible for the safe custody of cash and securities". The learned counsel for the petitioner Union is also relying on Exs.W10 and W11. Ex.W10 is an entry at page 47 relating to special allowances for Armed Guards in the book titled as "Service Conditions for Bank employees" by R.K. Ghotgalkar, Third Edition, 1969. The same book reprinted October 1994 is also marked as Ex.M2. This relates to payment of special allowances to the Armed Guards and the duties to be performed by them. As seen from this document, the Armed Guards are required to perform watch and ward duties i.e. to watch or look after the premises or department for the purpose of safety and security and guard against attack, assault or infiltration and against the removal of the bank's property by any unauthorised person and/or to watch and guard as above the movement of cash from one place to another whether inside or outside the bank for which purpose

they are required to carry on any of the weapons, like guns, pistols or any other fire arms, or dagger, sword, khukri or spear or any other licenced weapon. Ex.W11 is entry in pages 17 to 23 in the "Security Manual" relating to the duties of Security Department and Security Officer/staff. At page 20 in Ex.W11, the learned counsel for the petitioner Union submits that holding of keys of the outer gate/door of the Bank premises after the banking hours is not mentioned as one of the duties of the Armed Guard/Watch and Ward of the respondent – Bank and as such the Armed Guard should not be directed by the Management to hold the said keys. The learned counsel for the petitioner further submits that, on the other hand, it is specifically mentioned in Ex.W.9 that the main keys of the Branch must at all times be retained in the possession of the authorized officials of the Bank. It is no doubt true that holding of keys of the outer gate of the Bank premises is not enumerated as one of the duties/functions of the Armed Guard in any of these documents. I am in full conformity with the argument of the learned counsel for the respondent – Bank that the duties mentioned in all these documents are only enumerative but not exhaustive. Moreover, the maintenance of keys relating to the strong room wherein cash, jewellary and other important documents are preserved will be kept with the designated officials of the Bank or designated officers of the Bank and the Head Cashier. Therefore, a provision is made with regard to the custody of such keys in the document Ex.W9. The custody of the keys relating to Outer-gate/Door of the Bank premises is not so important as key of the strong room etc. Admittedly, the Armed Guard has to stay back in the Bank premises till it is closed by the Branch Manager or other officers of the Bank and thereafter it has to be locked. Again it has to be reopened on the next day morning. Till such time, the key of outer gate/door should be kept with the custody of the Armed Guard in whose presence it has to be reopened. Moreover, it has come in evidence that four sets of keys will be maintained for the outer gate of the Bank premises and one set of it will be entrusted for custody to the Armed Guard. The main keys relating to the strong room, under no circumstances, can be entrusted to the custody of the Armed Guard. They

have to be kept under the joint responsibility of the Head Cashier and the designated official of the Bank. Therefore, it will be in the fitness of things that one set of key of the outer gate/door of the Bank premises should be kept with the Armed Guard who maintains security and safety of the Bank."

The Tribunal also decided Issue No.2 against the petitioner by observing that the official concerned had declined to perform the duties assigned to him, including holding of the keys of the gate. In paragraph 12 of the impugned award, the Tribunal observed as under:

12. It is clear from the evidence of M.W1 and M.W2 and W.W4 and W.W5 that M.M.Ali was holding the keys of the outer gate even prior to February, 1991 i.e. before the issuance of office order under Ex.W13 and when he refused to hold the keys he was issued written order under Ex.W13 and as he refused to hold the keys in pursuance of that office order he was issued a charge sheet and disciplinary action has been initiated against him. Moreover, as seen from Exs.W18 and W11 an Armed Guard has to perform deligently of such lawful duties as assigned to him to the Branch Manager/Security Officer or his superiors and he should be under the general supervision and control of zonal and Regional Branch Manager. Being an armed guard, he must perform the duties as entrusted to him by his Branch Manager, considering the safety and security of Bank premises. It is in the evidence of M.W1 that two office orders under Exs.W13 and W15 were issued to M.M. Ali to hold the keys of the outer gate premises after the bank is closed. There is nothing unlawful in the issuance of such office orders to Arm Guard M.M.Ali, it is the duty of the Armed Guard to obey such lawful orders issued by the Branch Manager. As earlier stated, Armed Guard is not entrusted with the custody of the main keys relating to strong room and cup-boards etc. wherein cash, valuable jewellery and documents are kept. Moreover, even for effectively discharging their duties as mentioned in the Bipartitite settlements and in the Book of Instructions, the Armed Guards have to hold the keys

> of the outer gate premises of the Bank. The learned counsel for the respondent submits that with a view to pre-empt disciplinary action being taken against M.M. Ali for disobeying the lawful orders of the Management, the petitioner Union has raised this dispute as otherwise there is no industrial dispute within the meaning of Section 2 (K) of the I.D. Act. There is much force in this contention. As could be seen from the evidence on record, the petitioner Union has taken up the cause of the workman M.M. Ali as the Management initiated disciplinary action for disobeying the lawful office orders issued under Exs.W13 and W15 and raised the dispute before the conciliation officer preempting the management to proceed with the disciplinary action."

Shri P. Sreedhara Rao, learned counsel for the petitioner half-heartedly argued that the impugned award is vitiated by an error of law and is liable to be quashed because the finding recorded by the Tribunal about the nature of duties required to be performed by Security Guards, Armed Guards and members of Watch and Ward Staff is perverse. He submitted that the duties enumerated in the appointment letters issued to the members of these cadres do not envisage holding of keys by them after close of the bank premises and, therefore, they cannot be compelled to retain custody of the keys. Learned counsel emphasized that keys of the bank premises have always been kept by the officers of the bank and argued that there can be no justification, legal or otherwise, for insisting on holding of keys by the Watch and Ward Staff etc. He further argued that the proceedings initiated against Shri M.M. Ali on the charge of refusing to keep the keys are liable to be quashed because he cannot be accused of violating the duties assigned to him.

I have considered the submissions of the learned counsel and scrutinised the record. In the context of the first argument, I asked Shri P. Sreedhara Rao to produce the orders/letters by which

Security Guards etc. were appointed. I had also asked the learned counsel to produce the report of the committee which recommended that the bank keys should be entrusted to the members of Watch and Ward Staff etc. In reply, the learned counsel expressed his inability to assist the Court by stating that the relevant documents have not been made available to him.

In view of the above, I do not see any reason to interfere with the finding and conclusion reached by the learned Presiding Officer of the Tribunal by assuming that the same are based on conjectures.

The argument of the learned counsel that the bank could not have instituted the proceedings against Shri M.M. Ali on the allegation of having refused to keep the keys after closing of the bank premises is meritless. The finding recorded by the Tribunal on this issue is based on a proper evaluation of the pleadings and evidence of the parties. Therefore, there is no warrant for judicial interdiction with the proceedings initiated by the bank against Shri M.M. Ali and that too after a gap of more than ten years.

While recording the above conclusions, I have kept in view the limited scope of the power of judicial review vested in this Court qua the awards and orders made by the adjudicating authorities constituted under the Industrial Disputes Act and the parameters laid down by the Supreme Court for issue of a writ of certiorari in **Syed Yakoob v. K.S. Radhakrishnan and others**[1], **Shaik Mahammad Umarsaheb v. Kadalaskar Hasham Karimsab and others**[2], **Jitendra Singh Rathore v. Baidyanath Ayurved Bhawan Ltd.**[3], **R.S. Saini v. State of Punjab and others**[4], **Mohd. Shahnawaz Akhtar and another v. I ADJ Varanasi & ors.**[5] **and Surya Dev**

Rai v. Ram Chander Rai[6].

No other point has been argued.

In the result, the writ petition is dismissed.

G.S. SINGHVI, CJ

April 04, 2007

svs

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[1] **AIR 1964 SC 477**

[2] **AIR 1970 SC 61**

[3] **(1984) 3 SCC 5**

[4] **JT 1999 (6) SC 507**

[5] **JT 2002(8) SC 69**

[6] **(2003) 6 SCC 675**